IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 25TH OCTOBER 2006 / 3RD KARTHIKA 1928

OP.No. 11651 OF 1997(K)

PETITIONER:

K.V. GOPALAN, S/O. MADHAVA MENON,
ACHUTHA NIVAS, P.O. POLPAKKARA,
POTHANOOR, MALAPPURAM DISTRICT.

BY ADV. SRI.MOHAN PULIKKAL

RESPONDENTS:

1. THE CHIEF EXECUTIVE OFFICER, KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD, KOLLAM.

2. THE DISTRICT EXECUTIVE OFFICER, KERALA MOTOR TRANSPOROT WORKERS WELFARE FUND BOARD, MALAPPURAM.

3. THE DEPUTY TAHSILDAR, (REVENUE RECOVERY), TALUK OFFICE, PONNANI.

4. THE VILLAGE OFFICER, EDAPPAL, MALAPPURAM DISTRICT.

5. THE VILLAGE OFFICER, KALADY, MALAPPURAM DISTRICT.

BY ADV. SRI.P.RAMAKRISHNAN
SMT.T.C.KRISHNA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/10/2006, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

O.P. 11651/1997

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	FINAL DETERMINATION ORDER DATED 24.2.1997 PASSED BY THE 2ND RESPONDENT.
EXT.P2	FINAL DETERMINATION ORDER DATED 23.5.1997 PASSED BY THE 2ND RESPONDENT.
EXT.P3	DEMAND NOTICIE DATED 24.6.1997 ISSUED BY THE 3RD RESPONDENT.
EXT.P4	DEMAND NOTICE DATED 24.6.1997 ISSUED BY THE 3RD RESPONDENT.
EXT.P5	DEMAND NOTICIE DATED 24.6.1997 ISSUED BY THE 3RD RESPONDENT.
EXT.P6	TRUE COPY OF THE LETTER DATED 2.7.1997 FROM THE ADDITIONAL DISTRICT EXECUTIVE OFFICER TO DISTRICT COLLECTOR.
EXT.P7	TRUE COPY OF THE AGREEMENT DATED 6.9.1993 BETWEEN THE PETITIONER AND KUNJUMANY.
EXT.P8	TRUE COPY OF THE AGREEMENT DATED 11.5.1994 BETWEEN THE PETITIONER AND RAJAN.

// TRUE COPY //

P.S. TO JUDGE.

knc/-

P.R. RAMAN, J.

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O.P. NO. 11651/1997

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DATED THIS, THE 25TH DAY OF OCTOBER, 2006.

J U D G M E N T

Petitioner is the registered owner of a stage carriage vehicle bearing Reg. No. KRM 2777 and is an employer as defined in the Kerala Motor Transport Workers' Welfare Fund Act. Ext.P1 is the final determination order passed by the concerned authority under the said Act, for the year 1995-96, for an amount of Rs. 5428/-. Similarly, Ext.P2 is a determination order for the year 1996-97, for an amount of Rs. 5,785/-. On the premise that petitioner did not pay the amount, revenue recovery proceedings were initiated by the third respondent by issuing Exts.P3, P4 and P5 demand notices. Aggrieved thereby, petitioner has approached this Court.

2. Ext.P6 communication produced along with the reply affidavit, issued by the District Executive Officer, Kerala Motor Transport Workers' Welfare Fund Board, Malappuram dated 2.7.1997 addressed to the District Collector, Malappuram shows that an amount of Rs. 5,785/- and another amount of Rs. 1820/- were already paid by the petitioner by way of Demand Draft. It is fairly conceded by the respondents herein that the amount of contribution due towards the vehicle in question for the year 1995-96 and 1996-97 had been paid by the petitioner. So however, amounts are stated to be due towards another vehicle having Reg. No. KLL 7111 for the year 1994-95 and 1995-96 and Ext.P5 notice relates to the same. But the final determination order has not been passed after due notice to the petitioner.

3. Heard both sides. In the circumstances, the revenue recovery proceedings initiated against the petitioner as evidenced by Exts. P3 and P4 stand quashed since the amount sought to be

recovered has been paid by the petitioner as evidenced by Ext.P6. Ext.P5 is a demand notice in respect of the vehicle KLL 7111 and since final determination order is not yet issued, Ext.P5 is also quashed with liberty to the respondents to finalize the amount due from the petitioner and pass final determination order, after affording an opportunity of being heard to the petitioner.

The original petition is allowed as above.

P.R. RAMAN,
(JUDGE)

knc/-

P.R. RAMAN, J.
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O.P. NO. 11651/1997
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J U D G M E N T

DATED: 25.10.2006.